

AMENDED IN ASSEMBLY JUNE 10, 2016

AMENDED IN ASSEMBLY MAY 25, 2016

SENATE BILL

No. 835

Introduced by Committee on Budget and Fiscal Review

January 7, 2016

An act relating to the Budget Act of 2016. An act to amend Sections 14169.53 and 14169.75 of the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 835, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2016. Medi-Cal: hospitals: quality assurance fee.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law, subject to federal approval, imposes a hospital quality assurance fee, as specified, on certain general acute care hospitals to be deposited into the Hospital Quality Assurance Revenue Fund. Existing law provides that moneys in the Hospital Quality Assurance Revenue Fund are continuously appropriated during the first program period of January 1, 2014, to December 31, 2016, inclusive, and available only for certain purposes, including paying for health care coverage for children, as specified, and making supplemental payments for certain services to private hospitals and increased capitation payments to Medi-Cal managed care plans. For subsequent program periods, existing law requires that the moneys in the Hospital Quality Assurance Revenue Fund be used for the

above-described purposes upon appropriation by the Legislature in the annual Budget Act. Existing law provides that these provisions are inoperative on January 1, 2017, and that a hospital is not required to pay the hospital quality assurance fee after that date, as specified.

This bill would extend the operation of these provisions to January 1, 2018. The bill would instead, for the second program period and subsequent program periods, require moneys in the Hospital Quality Assurance Revenue Fund to be continuously appropriated, thereby making an appropriation, for the above-described purposes.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2016.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 14169.53 of the Welfare and Institutions*
- 2 *Code is amended to read:*
- 3 14169.53. (a) (1) All fees required to be paid to the state
- 4 pursuant to this article shall be paid in the form of remittances
- 5 payable to the department.
- 6 (2) The department shall directly transmit the fee payments to
- 7 the Treasurer to be deposited in the fund. Notwithstanding Section
- 8 16305.7 of the Government Code, any interest and dividends
- 9 earned on deposits in the fund from the proceeds of the fee assessed
- 10 pursuant to this article shall be retained in the fund for purposes
- 11 specified in subdivision (b).
- 12 (b) (1) Notwithstanding subdivision (c) of Section 14167.35,
- 13 subdivision (b) of Section 14168.33, and subdivision (b) of Section
- 14 14169.33, all funds from the proceeds of the fee assessed pursuant
- 15 to this article in the fund, together with any interest and dividends
- 16 earned on money in the fund, shall continue to be used exclusively
- 17 to enhance federal financial participation for hospital services
- 18 under the Medi-Cal program, to provide additional reimbursement
- 19 to, and to support quality improvement efforts of, hospitals, and
- 20 to minimize uncompensated care provided by hospitals to uninsured

1 patients, as well as to pay for the state's administrative costs and
2 to provide funding for children's health coverage, in the following
3 order of priority:

4 (A) To pay for the department's staffing and administrative
5 costs directly attributable to implementing this article, not to exceed
6 two hundred fifty thousand dollars (\$250,000) for each subject
7 fiscal quarter, exclusive of any federal matching funds.

8 (B) To pay for the health care coverage, as described in
9 subdivision (g), except that for the two subject fiscal quarters in
10 the 2013–14 fiscal year, the amount for children's health care
11 coverage shall be one hundred fifty-five million dollars
12 (\$155,000,000) for each subject fiscal quarter, exclusive of any
13 federal matching funds.

14 (C) To make increased capitation payments to managed health
15 care plans pursuant to this article and Section 14169.82, including
16 the nonfederal share of capitation payments to managed health
17 care plans pursuant to this article and Section 14169.82 for services
18 provided to individuals who meet the eligibility requirements in
19 Section 1902(a)(10)(A)(i)(VIII) of Title XIX of the federal Social
20 Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII)), and who
21 meet the conditions described in Section 1905(y) of the federal
22 Social Security Act (42 U.S.C. Sec. 1396d(y)).

23 (D) To make increased payments and direct grants to hospitals
24 pursuant to this article and Section 14169.83, including the
25 nonfederal share of payments to hospitals under this article and
26 Section 14169.83 for services provided to individuals who meet
27 the eligibility requirements in Section 1902(a)(10)(A)(i)(VIII) of
28 Title XIX of the federal Social Security Act (42 U.S.C. Sec.
29 1396a(a)(10)(A)(i)(VIII)), and who meet the conditions described
30 in Section 1905(y) of the federal Social Security Act (42 U.S.C.
31 Sec. 1396d(y)).

32 (2) Notwithstanding subdivision (c) of Section 14167.35,
33 subdivision (b) of Section 14168.33, and subdivision (b) of Section
34 14169.33, and notwithstanding Section 13340 of the Government
35 Code, the moneys in the fund shall be continuously appropriated
36 during the first program period only, without regard to fiscal year,
37 for the purposes of this article, Article 5.229 (commencing with
38 Section 14169.31), Article 5.228 (commencing with Section
39 14169.1), Article 5.227 (commencing with Section 14168.31),
40 former Article 5.226 (commencing with Section 14168.1), former

1 Article 5.22 (commencing with Section 14167.31), and former
2 Article 5.21 (commencing with Section 14167.1).

3 (3) ~~For Notwithstanding any other law, for the second program~~
4 ~~period and subsequent program periods, the moneys in the fund~~
5 ~~shall be used, upon appropriation by the Legislature in the annual~~
6 ~~Budget Act, continuously appropriated, without regard to fiscal~~
7 ~~year, for the purposes of this article and Sections 14169.82 and~~
8 ~~14169.83.~~

9 (c) Any amounts of the quality assurance fee collected in excess
10 of the funds required to implement subdivision (b), including any
11 funds recovered under subdivision (d) of Section 14169.61, shall
12 be refunded to general acute care hospitals, pro rata with the
13 amount of quality assurance fee paid by the hospital, subject to
14 the limitations of federal law. If federal rules prohibit the refund
15 described in this subdivision, the excess funds shall be used as
16 quality assurance fees for the next program period for general acute
17 care hospitals, pro rata with the amount of quality assurance fees
18 paid by the hospital for the program period.

19 (d) Any methodology or other provision specified in this article
20 may be modified by the department, in consultation with the
21 hospital community, to the extent necessary to meet the
22 requirements of federal law or regulations to obtain federal
23 approval or to enhance the probability that federal approval can
24 be obtained, provided the modifications do not violate the spirit,
25 purposes, and intent of this article and are not inconsistent with
26 the conditions of implementation set forth in Section 14169.72.
27 The department shall notify the Joint Legislative Budget Committee
28 and the fiscal and appropriate policy committees of the Legislature
29 30 days prior to implementation of a modification pursuant to this
30 subdivision.

31 (e) The department, in consultation with the hospital community,
32 shall make adjustments, as necessary, to the amounts calculated
33 pursuant to Section 14169.52 in order to ensure compliance with
34 the federal requirements set forth in Section 433.68 of Title 42 of
35 the Code of Federal Regulations or elsewhere in federal law.

36 (f) The department shall request approval from the federal
37 Centers for Medicare and Medicaid Services for the implementation
38 of this article. In making this request, the department shall seek
39 specific approval from the federal Centers for Medicare and
40 Medicaid Services to exempt providers identified in this article as

1 exempt from the fees specified, including the submission, as may
2 be necessary, of a request for waiver of the broad-based
3 requirement, waiver of the uniform fee requirement, or both,
4 pursuant to paragraphs (1) and (2) of subdivision (e) of Section
5 433.68 of Title 42 of the Code of Federal Regulations.

6 (g) (1) For purposes of this subdivision, the following
7 definitions shall apply:

8 (A) “Actual net benefit” means the net benefit determined by
9 the department for a net benefit period after the conclusion of the
10 net benefit period using payments and grants actually made, and
11 fees actually collected, for the net benefit period.

12 (B) “Aggregate fees” means the aggregate fees collected from
13 hospitals under this article.

14 (C) “Aggregate payments” means the aggregate payments and
15 grants made directly or indirectly to hospitals under this article,
16 including payments and grants described in Sections 14169.54,
17 14169.55, 14169.57, and 14169.58, and subdivision (b) of Section
18 14169.82.

19 (D) “Net benefit” means the aggregate payments for a net benefit
20 period minus the aggregate fees for the net benefit period.

21 (E) “Net benefit period” means a subject fiscal year or portion
22 thereof that is in a program period and begins on or after July 1,
23 2014.

24 (F) “Preliminary net benefit” means the net benefit determined
25 by the department for a net benefit period prior to the beginning
26 of that net benefit period using estimated or projected data.

27 (2) The amount of funding provided for children’s health care
28 coverage under subdivision (b) for a net benefit period shall be
29 equal to 24 percent of the net benefit for that net benefit period.

30 (3) The department shall determine the preliminary net benefit
31 for all net benefit periods in the first program period before July
32 1, 2014. The department shall determine the preliminary net benefit
33 for all net benefit periods in a subsequent program period before
34 the beginning of the program period.

35 (4) The department shall determine the actual net benefit and
36 make the reconciliation described in paragraph (5) for each net
37 benefit period within six months after the date determined by the
38 department pursuant to subdivision (h).

39 (5) For each net benefit period, the department shall reconcile
40 the amount of moneys in the fund used for children’s health

1 coverage based on the preliminary net benefit with the amount of
2 the fund that may be used for children's health coverage under
3 this subdivision based on the actual net benefit. For each net benefit
4 period, any amounts that were in the fund and used for children's
5 health coverage in excess of the 24 percent of the actual net benefit
6 shall be returned to the fund, and the amount, if any, by which 24
7 percent of the actual net benefit exceeds 24 percent of the
8 preliminary net benefit shall be available from the fund to the
9 department for children's health coverage. The department shall
10 notify the Joint Legislative Budget Committee and the fiscal and
11 appropriate policy committees of the Legislature of the results of
12 the reconciliation for each net benefit period pursuant to this
13 paragraph within five working days of performing the
14 reconciliation.

15 (6) The department shall make all calculations and
16 reconciliations required by this subdivision in consultation with
17 the hospital community using data that the department determines
18 is the best data reasonably available.

19 (h) After consultation with the hospital community, the
20 department shall determine a date upon which substantially all
21 fees have been paid and substantially all supplemental payments,
22 grants, and rate range increases have been made for a program
23 period, which date shall be no later than two years after the end
24 of a program period. After the date determined by the department
25 pursuant to this subdivision, no further supplemental payments
26 shall be made under the program period, and any fees collected
27 with respect to the program period shall be used for a subsequent
28 program period consistent with this section. Nothing in this
29 subdivision shall affect the department's authority to collect quality
30 assurance fees for a program period after the end of the program
31 period or after the date determined by the department pursuant to
32 this subdivision. The department shall notify the Joint Legislative
33 Budget Committee and fiscal and appropriate policy committees
34 of that date within five working days of the determination.

35 (i) Use of the fee proceeds to enhance federal financial
36 participation pursuant to subdivision (b) shall include use of the
37 proceeds to supply the nonfederal share, if any, of payments to
38 hospitals under this article for services provided to individuals
39 who meet the eligibility requirements in Section
40 1902(a)(10)(A)(i)(VIII) of Title XIX of the federal Social Security

1 Act (42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII)), and who meet the
2 conditions described in Section 1905(y) of the federal Social
3 Security Act (42 U.S.C. Sec. 1396d(y)) such that expenditures for
4 services provided to the individual are eligible for the enhanced
5 federal medical assistance percentage described in that section.

6 *SEC. 2. Section 14169.75 of the Welfare and Institutions Code*
7 *is amended to read:*

8 14169.75. Notwithstanding Section 14169.72, this article shall
9 become inoperative on January 1, ~~2017~~ *2018*. A hospital shall
10 *not* be required to pay the fee after that date unless the fee was
11 owed during the period in which the article was operative, and ~~no~~
12 payments authorized under Section 14169.53 shall *not* be made
13 unless the payments were owed during the period in which the
14 article was operative.

15 *SEC. 3. This act is a bill providing for appropriations related*
16 *to the Budget Bill within the meaning of subdivision (e) of Section*
17 *12 of Article IV of the California Constitution, has been identified*
18 *as related to the budget in the Budget Bill, and shall take effect*
19 *immediately.*

20 *SEC. 4. This act is an urgency statute necessary for the*
21 *immediate preservation of the public peace, health, or safety within*
22 *the meaning of Article IV of the Constitution and shall go into*
23 *immediate effect. The facts constituting the necessity are:*

24 *In order to provide continued health care coverage for*
25 *Californians at the earliest possible time, it is necessary that this*
26 *bill take effect immediately.*

27 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
28 ~~changes, relating to the Budget Act of 2016.~~